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**REMARKS**

This is in response to the final Office Action mailed May 3, 2007. In the Office Action, the Examiner notes that claims 1-11, 16, 17, 37, 40, 60, 67-70, 97, 99, 102, 104, 111, 113, 115, 116, 127-129, 137-139, and 169-174 are pending and rejected. By this response, Applicants have amended claims 1, 67, 99, 127 and 169.

In view of the foregoing amendments and the following discussion, Applicants submit that none of the claims now pending in the application are obvious under the provisions of 35 U.S.C. §103. Thus, Applicants believe that all of these claims are now in allowable form.

It is to be understood that Applicants, by amending the claims, do not acquiesce to the Examiner's characterizations of the art of record or to Applicants' subject matter recited in the pending claims. Further, Applicants are not acquiescing to the Examiner's statements as to the applicability of the art of record to the pending claims by filing the instant responsive amendments.

**REJECTIONS****35 U.S.C. §103****Claims 1-3, 9, 16, 37, 40, 99, 102, 104, 111, 113, 127-129, and 137-139**

The Examiner has rejected claims 1-3, 9, 16, 37, 40, 99, 102, 104, 111, 113, 127-129, and 137-139 under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent Application Publication 2003/0066085 to Boyer '085 et al. (hereinafter "Boyer '085") in view of U.S. Patent 5,517,502 to Bestler et al. (hereinafter "Bestler") and U.S. Patent Application Publication 2005/0138660 to Boyer et al. (hereinafter "Boyer '660").

Applicants respectfully traverse the rejection.

The test under 35 U.S.C. §103 is not whether an improvement or a use set forth in a patent would have been obvious or non-obvious; rather the test is whether the claimed invention, considered as a whole, would have been obvious. Jones v. Hardy, 110 USPQ 1021, 1024 (Fed. Cir. 1984) (emphasis added). As discussed in Applicants' response(s) to previous Office Action(s), the Boyer '085 and Bestler references alone or in combination fail to teach or suggest Applicants' invention as a whole.

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Applicants' independent claim 1 recites:

1. An apparatus that provides digital broadcast television programs to a subscriber, comprising:
  - a first receiver module located at a first site of a first subscriber that receives program data;
  - a head end for receiving a program selection from said first receiver module and generating an authorization code for said program selection;
  - a network controller located at said head end for receiving said authorization signal and generating a local authorization signal;
  - a second receiver module located at a second site of a second different subscriber geographically remote from the first site for receiving the local authorization code, wherein the authorization code allows the digital broadcast television programs to be decrypted for viewing;
  - a transmitter that sends the program selection to the second site, wherein the program selection is made from the program data received by the first receiver module at the first site and contains the address of the second receiver module; and
  - a memory coupled to the second receiver module for storing the received authorization code, wherein the local authorization code is stored in the memory until needed for decrypting the selected program at a future time.

In an exemplary embodiment, Applicants' invention teaches an apparatus and method that provides digital broadcast television programs to a subscriber comprising a first receiver module located at a first site of a first subscriber that receives program data and a second receiver module located at a second site of a second different subscriber geographically remote from the first site. For example, this exemplary embodiment allows a subscriber to provide access to a program, such as an annual subscription to a specialty channel or a sports program package to another subscriber, for example as a gift. (See e.g., Applicants' specification, p. 34, ll. 26-28.) In addition, the head end and a network controller located at the head end receive the program selection and generate the authorization code to enable viewing of the program selection. (See e.g., Applicants' specification, p. 39, ll. 16-23.)

Boyer '085 discloses how to order pay-per-view event. Specifically, the user clicks on a place order button. (See Boyer, Abstract.) The user then verifies the user's identity and account status. (See *Id.*) Once the user's information has been verified, the selected pay-per-view event may be delivered to the user's multimedia system. (See *Id.*) In a different embodiment, Boyer '085 also teaches internet capable boxes

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116, 112 and PC 106 that are able to receive television program information via the internet links. (See *Id.* at para. [0069] – [0071].) These internet capable boxes may include a separate input for the television signal 118. (See *Id.*)

Nowhere in Boyer '085 is there any teaching or suggestion of at least Applicants' claimed feature a first receiver module located at a first site of a first subscriber that receives program data and a second receiver module located at a second site of a second different subscriber geographically remote from the first site. The Examiner concedes this in the Office Action. (See Office Action, p. 5, ll. 4-5.) In addition, Boyer '085 fails to teach or suggest a head end for receiving a program selection from said first receiver module and generating an authorization code for said program selection or a network controller located at said head end for receiving said authorization signal and generating a local authorization signal.

Bestler fails to bridge the substantial gap between Boyer '085 and Applicants' Invention. Specifically, Bestler fails to teach or suggest at least an apparatus and method that provides digital broadcast television programs to a subscriber comprising a first receiver module located at a first site of a first subscriber that receives program data and a second receiver module located at a second site of a second different subscriber geographically remote from the first site, as recited in claim 1.

Bestler discloses a two-way communications network having different types of downstream conditional access (CA) packets, one type of which "includes the public S/N of one or more subscriber terminals together with the associated active and received CA and payload key sources, communication bits and authorization levels." (See Bestler, col. 8, ll. 53-56.) Bestler also discloses a subscriber terminal having an upstream transmitter that transmits an upstream data packet which "typically comprises a subscriber identification number and the identification of a particular requested service, such as a particular Impulse-pay-per-view (IPPV) television program." (See Bestler, col. 7, ll. 37-40.) However, Bester does not teach at least an apparatus and method that provides digital broadcast television programs to a subscriber comprising a first receiver module located at a first site of a first subscriber that receives program data and a second receiver module located at a second site of a second different

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subscriber geographically remote from the first site.

In addition, Bestler fails to teach or suggest a head end for receiving a program selection from said first receiver module and generating an authorization code for said program selection or a network controller located at said head end for receiving said authorization signal and generating a local authorization signal. In stark contrast, Bestler teaches that the CA, which the Examiner alleges is equivalent to the authorization code and local authorization code taught by the Applicants' invention, is generated at the subscriber terminal and not at a head end. (See Bestler, col. 3, ll. 1-3; FIG. 1; the digital circuit 16 which outputs the CA is located in subscriber terminal 10.)

Boyer '660 fails to bridge the substantial gap between Boyer '085 and Bestler and Applicants' invention as claimed in at least claim 1. Boyer '660 discloses an electronic mail reminder for an internet television program guide. Boyer '660 fails to teach or to suggest at least an apparatus and method that provides digital broadcast television programs to a subscriber comprising a first receiver module located at a first site of a first subscriber that receives program data and a second receiver module located at a second site of a second different subscriber geographically remote from the first site.

The Examiner notes that the claims do not preclude the first and second subscribers from being different subscribers. In response, the Applicants herein amend the independent claims to clarify that the first and second subscribers are not the same. Consequently, this exemplary embodiment allows a subscriber to provide access to a program, such as an annual subscription to a specialty channel or a sports program package to another subscriber, for example as a gift. (See e.g., Applicants' specification, p. 34, ll. 26-28.) Boyer '660 fails to teach or suggest this novel feature.

As such, Applicants submit that independent claim 1 is patentable under 35 U.S.C. §103 over Boyer '085 in view of Bestler and Boyer '660. Moreover, independent claims 67, 99, 127, 142 and 169 have relevant limitations similar to those discussed above in regards to claim 1. As such, Applicants submit that independent claims 67, 99, 127, 142 and 169 are not obvious and fully satisfy the requirements of 35 U.S.C. §103 and are patentable thereunder. Furthermore, claims 2-3, 9, 16, 37, 40, 102, 104, 111,

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113, 128-129, and 137-139 depend, either directly or indirectly, from independent claims 1, 99 and 127 and recite additional features thereof. As such and at least for the same reasons as discussed above, Applicants submit that these dependent claims are also patentable under 35 U.S.C. §103 over Boyer '085, Bestler and Boyer '660. Therefore, Applicants respectfully request that the Examiner's rejection be withdrawn.

#### **Claims 4 and 17**

The Examiner has rejected claims 4 and 17 under 35 U.S.C. §103(a) as being unpatentable over Boyer '085, Bestler and Boyer '660 in view of U.S. Patent 5,600,364 to Hendricks (hereinafter "Hendricks '364"). Applicants respectfully traverse the Examiner's rejection.

Each ground of rejection applies only to dependent claims, and each is predicated on the validity of the rejection of the corresponding independent claims under 35 U.S.C. §103 over Boyer '085, Bestler and Boyer '660. Since the rejection of the corresponding independent claims under 35 U.S.C. §103 has been overcome, as described hereinabove, and there is no argument put forth by the Office Action that any other additional references supply that which is missing from Boyer '085, Bestler and Boyer '660 to render the independent claims unpatentable, these grounds of rejection cannot be maintained. As such, Applicants submit that claims 4 and 17 are patentable under 35 U.S.C. §103 over Boyer '085, Bestler and Boyer '660 in view of Hendricks '364. Therefore, Applicants respectfully request that the Examiner's rejection be withdrawn.

#### **Claim 5**

The Examiner has rejected claim 5 under 35 U.S.C. §103(a) as being unpatentable over Boyer '085, Bestler and Boyer '660 in view of U.S. Patent 5,880,769 to Nemirofsky et al. (hereinafter "Nemirofsky"). Applicants respectfully traverse the rejection.

Each ground of rejection applies only to dependent claims, and each is predicated on the validity of the rejection of the corresponding independent claims

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under 35 U.S.C. §103 over Boyer '085, Bestler and Boyer '660. Since the rejection of the corresponding independent claims under 35 U.S.C. §103 has been overcome, as described hereinabove, and there is no argument put forth by the Office Action that any other additional references supply that which is missing from Boyer '085, Bestler and Boyer '660 to render the independent claims unpatentable, these grounds of rejection cannot be maintained. As such, Applicants submit that claim 5 is patentable under 35 U.S.C. §103 over Boyer '085, Bestler and Boyer '660 in view of Nemirofsky. Therefore, Applicants respectfully request that the Examiner's rejection be withdrawn.

**Claims 6-8, 10, and 11**

The Examiner has rejected claims 6-8, 10 and 11 under 35 U.S.C. §103(a) as being unpatentable over Boyer '085, Bestler, Boyer '660 and Nemirofsky in view of U.S. Patent 5,809,204 to Young et al. (hereinafter "Young"). Applicants respectfully traverse the Examiner's rejection.

Each ground of rejection applies only to dependent claims, and each is predicated on the validity of the rejection of the corresponding independent claims under 35 U.S.C. §103 over Boyer '085, Bestler, and Boyer '660. Since the rejection of the corresponding Independent claims under 35 U.S.C. §103 has been overcome, as described hereinabove, and there is no argument put forth by the Office Action that any other additional references supply that which is missing from Boyer '085, Bestler and Boyer '660 to render the independent claims unpatentable, these grounds of rejection cannot be maintained. As such, Applicants submit that claims 6-8, 10 and 11 are patentable under 35 U.S.C. §103 over Boyer '085, Bestler, Boyer '660, and Nemirofsky in view of Young. Therefore, Applicants respectfully request that the Examiner's rejection be withdrawn.

**Claims 67-70, 85, 97, and 169-174**

The Examiner has rejected claims 67-70, 85, 97, and 169-174 under 35 U.S.C. §103(a) as being unpatentable over Boyer '085 in view of Hendricks '364, Bestler and Boyer '660. Applicants respectfully traverse the rejection.

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Independent claims 67 and 169 recite relevant limitations similar to those recited in independent claim 1. As such, for at least the reasons discussed above with respect to independent claim 1, independent claims 67 and 169 are patentable under 35 U.S.C. §103 over Boyer '085, Bestler and Boyer '660. Hendricks '364 falls to bridge the substantial gap between Boyer '085, Bestler and Boyer '660 and Applicants' claimed invention. In particular, nowhere in Hendricks '364 is there any teaching or suggestion of at least Applicants' claimed apparatus and method that provides digital broadcast television programs to a subscriber comprising a first receiver module located at a first site of a first subscriber that receives program data and a second receiver module located at a second site of a second different subscriber geographically remote from the first site, a head end for receiving a program selection from said first receiver module and generating an authorization code for said program selection or a network controller located at said head end for receiving said authorization signal and generating a local authorization signal. Therefore, the combination of Boyer '085, Bestler, Boyer '660 and Hendricks '364 fail to render obvious Applicants' Independent claims 67 and 169.

Claims 68-70, 85, 97, and 170-174 depend directly or indirectly from independent claims 67 and 169 and recite additional features thereof. As such, for at least the same reasons discussed above, these dependent claims also are patentable under 35 U.S.C. §103 over Boyer '085 in view of Hendricks '364, Bestler and Boyer '660. Therefore, the Examiner's rejection should be withdrawn.

#### Claims 60 and 115

The Examiner has rejected claims 60 and 115 under 35 U.S.C. §103(a) as being unpatentable over Boyer '085, Bestler and Boyer '660 in view of U.S. Patent 5,734,853 to Hendricks (hereinafter "Hendricks '853"). Applicants respectfully traverse the Examiner's rejection.

Each ground of rejection applies only to dependent claims, and each is predicated on the validity of the rejection of the corresponding independent claims under 35 U.S.C. §103 over Boyer '085, Bestler and Boyer '660. Since the rejection of the corresponding Independent claims under 35 U.S.C. §103 has been overcome, as

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described hereinabove, and there is no argument put forth by the Office Action that any other additional references supply that which is missing from Boyer '085, Bestler and Boyer '660 to render the independent claims unpatentable, these grounds of rejection cannot be maintained. As such, Applicants submit that claims 60 and 115 are patentable under 35 U.S.C. §103 over Boyer '085, Bestler, Boyer '660 and Hendricks '853. Therefore, Applicants respectfully request that the Examiner's rejection be withdrawn.

#### **Claims 86 and 116**

The Examiner has rejected claims 86 and 116 under 35 U.S.C. §103(a) as being unpatentable over Boyer '085, Bestler and Boyer '660 in view of Hendricks '853 and Hendricks '364. Applicants respectfully traverse the Examiner's rejection.

Each ground of rejection applies only to dependent claims, and each is predicated on the validity of the rejection of the corresponding independent claims under 35 U.S.C. §103 over Boyer '085, Bestler and Boyer '660. Since the rejection of the corresponding independent claims under 35 U.S.C. §103 has been overcome, as described hereinabove, and there is no argument put forth by the Office Action that any other additional references supply that which is missing from Boyer '085, Bestler and Boyer '660 to render the independent claims unpatentable, these grounds of rejection cannot be maintained. As such, Applicants submit that claims 86 and 116 are patentable under 35 U.S.C. §103 over Boyer '085, Bestler and Boyer '660 in view of Hendricks '853 and Hendricks '364. Therefore, Applicants respectfully request that the Examiner's rejection be withdrawn.

#### **SECONDARY REFERENCES**

The secondary references made of record are noted. However, it is believed that the secondary references are no more pertinent to Applicants' disclosure than the primary references cited in the Office Action. Therefore, Applicants believe that a detailed discussion of the secondary references is not necessary for a full and complete response to this Office Action.

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### CONCLUSION

Thus, Applicants submit that all of the claims presently in the application are allowable. Accordingly, both reconsideration of this application and its swift passage to issue are earnestly solicited.

If, however, the Examiner believes that there are any unresolved issues requiring adverse final action in any of the claims now pending in the application, it is requested that the Examiner telephone Eamon J. Wall or Chin (Jimmy) Kim at (732) 530-9404 so that appropriate arrangements can be made for resolving such issues as expeditiously as possible.

Respectfully submitted,

Dated: 7/2/07



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